

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN JESUS HERNANDEZ,

No. C 06-3975 WHA (PR)

Petitioner,

**DENIAL OF CERTIFICATE OF
APPEALABILITY**

v.

JEANNE S. WOODFORD, Secretary,
California Department of Corrections and
Rehabilitation,

Respondent.

This is a habeas case under 28 U.S.C. § 2254 filed pro se by a state prisoner. The petition was denied in an order entered on April 22, 2008. Judgment was entered that day. Petitioner has filed a timely notice of appeal and a request for a certificate of appealability ("COA").

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. *See id.* § 2253(c)(3). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the


1 constitutional claims debatable or wrong.” *Slack v. McDaniel*, 120 S.Ct. 1595, 1604 (2000).

2 This was not a close case. For the reasons set out in the order denying the petition,
3 reasonable jurists would not find the result debatable or wrong. Petitioner’s motion for a
4 certificate of appealability (document number 18 on the docket) is **DENIED**.

5 The clerk shall transmit the file, including a copy of this order, to the court of appeals.
6 See Fed. R.App.P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).
7 Petitioner may then ask the court of appeals to issue the certificate, see R.App.P. 22(b)(1), or if
8 he does not, the notice of appeal will be construed as such a request, see R.App.P. 22(b)(2).

9 **IT IS SO ORDERED.**

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11 Dated: May 27, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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